



San Diego City Attorney **MICHAEL J. AGUIRRE**

NEWS RELEASE

FOR IMMEDIATE RELEASE: *September 20, 2007

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U.S. SECURITIES AND EXCHANGE COMMISSION TAKES ACTION AGAINST PENSION CONSULTING FIRM BASED ON SAME EVIDENCE REVEALED IN COURT DOCUMENTS FILED BY THE CITY ATTORNEY'S OFFICE

San Diego, CA—The same evidence that was revealed in the San Diego City Attorney's lawsuit against Callan Associates, Inc., formed the basis for the U.S. Securities and Exchange Commission (SEC) taking action against the pension consulting firm for not disclosing it had an economic relationship with a brokerage firm. Yesterday, the SEC issued a Cease-and-Desist Order against Callan Associates for violating Section 207 of the Advisers Act. The San Francisco based pension consulting firm has been advising the San Diego City Employees' Retirement System (SDCERS) since 1982.

"To my knowledge, our lawsuit was the only public airing of this evidence in court," said City Attorney Michael Aguirre. "This evening it was also brought to my attention that a former Pension Board member also raised the issue to then-Mayor Dick Murphy in 2002."

The SEC Order found that:

Since 1999, Callan has referred clients to BNY Brokerage Inc. ("BNY") as Callan's preferred securities broker. Although Callan disclosed in its Form ADV Part II that it had a contractual relationship with BNY that required Callan to identify BNY as its preferred or exclusive broker, Callan failed to disclose that it was receiving annual payments that were contingent on Callan clients generating a certain level of commissions for BNY. The omission of this conflict caused Callan's public disclosures to be misleading.

According to Executive Assistant City Attorney Don McGrath, the City Attorney's Office filed the lawsuit against Callan in 2005. The case was settled for \$4.5 million in November 2006. During the course of the City Attorney's investigation the conflict of interest issue surfaced.

Based on the evidence of Callan's activities, the SEC Cease-and-Desist Order states:

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As a result of the conduct described above, Callan willfully violated Section 207 of the Advisers Act, which makes it “unlawful for any person willfully to make any untrue statement of a material fact in any registration application or report filed with the Commission . . . or willfully to omit to state in any such application or report any material fact which is required to be stated therein.”

The City’s lawsuit was prosecuted on a contingency fee arrangement by private attorneys Dan Stanford and Bryan C. Vess.

According to pleadings Vess filed in the City’s litigation against Callan:

Callan repeatedly denied to SDCERS [San Diego City Employees’ Retirement System] that Callan had any economic relationship with any brokerage firms with whom it was encouraging SDCERS to do business. It had recently been discovered that Callan’s assurance was untrue: It did and does have an economic relationship with a brokerage firm, whereby the brokerage firm is paying Callan \$54 million for Callan to perform services for the brokerage firm. Those services include Callan giving the brokerage firm financial information about Callan’s clients, including SDCERS, without the clients’ knowledge or consent. These services create an additional conflict of interest in the performance of Callan’s duties to SDCERS.

Callan has had a contractual relationship with SDCERS, wherein it has provided investment consulting services, including among other things, investment manager searches, quarterly performance reports, assistance in the development of investment policy guidelines, and asset allocation and liability studies.

The Callan settlement brings the total recovery from civil lawsuits filed by the City Attorney’s Office against professional firms advising SDCERS to \$6 million.

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